

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DAWN HANSEN, ET AL.,

Plaintiffs,

V.

KATHLEEN E. DELANEY, ET AL.,

Defendants.

Case No.: 2:21-cv-00135-JAD-DJA

REPORT AND RECOMMENDATION

Pending before the Court is Defendants' Motion to Declare Plaintiffs Vexatious Litigants No. 18), filed on April 8, 2021. To date, no response has been filed. The Court finds this to be properly resolved without a hearing. LR 78-1.

I. BACKGROUND

Defendants seeks to deem Plaintiffs Christopher Hansen, Dawn Hansen, and Nicholas Hansen vexatious litigants and an order limiting their filings that are not procedurally proper and/or frivolous. They highlight that Plaintiffs have filed numerous and voluminous frivolous pleadings, including nine motions to disqualify judges in the underlying state court proceeding that led to this action. Due to Plaintiffs' actions, Defendants claim that the court's resources and their resources have been unnecessarily expended. Plaintiffs failed to submit a response, which "constitutes a consent to the granting of the motion." LR 7-2(d).

II. DISCUSSION

A district court has the “inherent power to enter pre-filing orders against vexatious litigants.” *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057 (9th Cir. 2007) (citing 28 U.S.C. § 1651(a)). Because a pre-filing order implicates a litigant’s right of access to the courts, the court should enter such an extreme remedy “only after a cautious review of the pertinent

1 circumstances.” *Id.* Prior to entering a pre-filing order, the court must give the litigant notice and
 2 an opportunity to be heard. *Id.* (citing *De Long v. Hennessey*, 912 F.2d 1144, 1147 (9th Cir. 1990)).
 3 The court must set forth an adequate record for review and make “substantive findings about the
 4 frivolous or harassing nature of the plaintiff’s litigation.” *Id.* “An adequate record for review
 5 should include a listing of all the cases and motions that led the district court to conclude that a
 6 vexatious litigant order was needed.” *Id.* at 1059 (quoting *De Long*, 912 F.2d at 1147). “Flagrant
 7 abuse of the judicial process cannot be tolerated because it enables one person to preempt the use
 8 of judicial time that properly could be used to consider the meritorious claims of other litigants.”
 9 *De Long*, 912 F.2d at 1148.

10 To determine whether the litigant’s conduct is frivolous or harassing, the court evaluates
 11 “both the number and content of the filings as indicia of the frivolousness of the litigant’s claims.”
 12 *Id.* (quotation omitted). A pre-filing order “must be narrowly tailored to closely fit the specific
 13 vice encountered.” *Id.* (quotation omitted). Whether to enter a pre-filing order against a vexatious
 14 litigant lies within the court’s discretion. *Id.* at 1056. The court should examine five factors: (1)
 15 the litigant’s history of litigation and in particular whether it entailed vexatious, harassing, or
 16 duplicative lawsuits; (2) the litigant’s motive in pursuing the litigation, e.g., does the litigant have
 17 an objective good faith expectation of prevailing?; (3) whether the litigant is represented by
 18 counsel; (4) whether the litigant has caused needless expense to other parties or has posed an
 19 unnecessary burden on the courts and their personnel; and (5) whether other sanctions would be
 20 adequate to protect the courts and other parties. *Williams v. Nat’l Default Servicing Corp.*, 2017
 21 U.S. Dist. LEXIS 4111, at 12-14 (D. Nev. Jan. 10, 2017) (citing *Molski v. Mandarin Touch Rest.*,
 22 347 F.Supp.2d 860, 863-64 (C.D. Cal. 2004)).

23 “No one, rich or poor, is entitled to abuse the judicial process.” *Tripathi v. Beaman*, 878
 24 F.2d 351, 353 (10th Cir. 1989). Plaintiffs do not have a good faith motive in pursuing this frivolous
 25 litigation and they have abused the judicial process by filing a lawsuit that is likely to be dismissed.
 26 Further, Plaintiffs have filed nine motions to disqualify judges in the related state court proceeding,
 27 which has posed an unnecessary burden on court resources and are a vexatious abuse of the judicial
 28 process. Given those past actions, Plaintiffs are likely to continue their abuse of the judicial

1 process. Requiring Plaintiffs to seek leave prior to filing new documents in this case is narrowly
 2 tailored because they will still have access to this Court by requesting leave.

3 Moreover, Plaintiffs have been provided with reasonable notice and an opportunity to
 4 oppose the pre-filing restrictive order through the briefing process. They failed to submit any
 5 response, which constitutes consent to the granting of this Motion. However, they will be provided
 6 with one more opportunity to oppose the Court's recommendation via the objection process.

7 **III. CONCLUSION**

8 **RECOMMENDATION**

9 **IT IS HEREBY RECOMMENDED** that Defendants' Motion to Declare Plaintiffs
 10 Vexatious Litigants (ECF No. 18) be **granted** and Plaintiffs be deemed **vexatious litigants**.

11 **IT IS FURTHER RECOMMENDED** that Plaintiffs be required to seek leave of the
 12 Court before making any additional filings in this action while Defendants' Motion to Dismiss
 13 (ECF No. 15) is pending.

14 **NOTICE**

15 This report and recommendation is submitted to the United States District Judge assigned
 16 to this case under 28 U.S.C. § 636(b)(1). A party who objects to this report and recommendation
 17 may file a written objection supported by points and authorities within fourteen days of being
 18 served with this report and recommendation. Local Rule IB 3-2(a). Failure to file a timely
 19 objection may waive the right to appeal the district court's order. *Martinez v. Ylst*, 951 F.2d
 20 1153, 1157 (9th Cir. 1991).

21 Dated: April 26, 2021.



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 23 Daniel J. Albrechts
 24 United States Magistrate Judge
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